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PCT LEGAL ADMINISTRATION

In re Application of
Nguyen et al.
Application No.: 10/537,586
PCT No.: PCT/IB2004/000431
Int. Filing Date: 18 February 2004
Priority Date: 20 February 2003
Attorney Docket No.: MOL0673
For: Aluminium Electrowinning Cells
With Metal-Based Anodes

DECISION

This is with regard to the "Petition Under 37 CFR 1.182 or 1.183" filed on 23 December 2010, which is being treated under 37 CFR 1.181.

BACKGROUND

This international application was filed on 18 February 2004, designated the United States, and claimed an earliest priority date of 20 February 2003. The International Bureau transmitted a copy of the published international application to the USPTO on 02 September 2004. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 20 August 2005. Applicants timely filed *inter alia* the basic national fee.

On 04 March 2008, a Notification Of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h)..

On 01 November 2010, a Notification of Abandonment was mailed to counsel, indicating that this application had become abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed on 04 March 2008.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment, in view of the circumstance that "Applicants did in fact file the Request which contained the Declaration signed by all 3 inventors." Review of the record reveals that a declaration was filed pursuant to PCT Rule 4.17(iv), and that a copy thereof was filed on 06 June 2005. Inspection of said declaration reveals that the name of inventor De Nora appears to have been modified or corrected (by changing the last letter of the given name to "o"), but this alteration of the declaration was not initiated by the inventor at the time the declaration was signed. Since the declaration was defective, the mailing of the Notification of Missing Requirements on 04 March 2008 was proper. Accordingly, it would not be appropriate to grant the requested relief on the basis of the present record.

Since the petition is being treated under 37 CFR 1.181, the petition fee paid on 23 December 2010 was not required, and will be refunded to applicants.

DECISION

The petition is **DISMISSED**, without prejudice.

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mailing date of this Decision, extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459